

LEGAL CONCERNS DURING A HEALTH EPIDEMIC: SEVEN KEY QUESTIONS TO CONSIDER



The recent swine flu pandemic was, for many organizations, a wake-up call to the potential business risks and repercussions of health epidemics. In an increasingly globalized world, epidemics and pandemics are a threat that can't be ignored. Organizations must consider the issues—some obvious, some not—that may affect their workforce and operations in the event of an outbreak.

Because epidemics can unfold quickly, it's important to be prepared in advance. Among the important questions to consider are:

- 1. Can your company legally require that all employees provide proof that they have been vaccinated or have taken preventive medications?**
Can it require them to disclose whether they have been exposed to disease?
- 2. Can your company bar people from coming to work if they've been exposed to disease/illness or exhibit certain symptoms or traits?**
Does this create a problem under the Americans with Disabilities or Rehabilitation Act?
- 3. What if people are afraid to come to the workplace? Can they be compelled to do so?**
- 4. What if your company or its vendors or suppliers cannot perform their obligations or contracts due to an epidemic?**
- 5. Can your company provide immunization or antiviral medication to some or all of your workforce?**
Are you liable if someone has an adverse reaction?
- 6. What warnings must be given to recipients of vaccinations or preventive medication?**
Can enforceable waivers be secured? What "informed consent" standards will apply in this context?
- 7. What patient-specific records must be maintained?**
Is HIPAA compliance required, and if so, what steps will such compliance require or prohibit?



Pillsbury Winthrop Shaw Pittman LLP | 1540 Broadway | New York, NY 10036 | 1.877.323.4171

ATTORNEY ADVERTISING. Results depend on a number of factors unique to each matter. Prior results do not guarantee a similar outcome.

© 2012 Pillsbury Winthrop Shaw Pittman LLP. All rights reserved.